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SUBJECT: LEBANON: UNIIIC BRAMMERTZ APPLIES SCISSORS TO
RUSSIAN LETTER

Classified By: Ambassador Jeffrey D. Feltman. Reason: Section 1.4 (b).

SUMMARY

1. (S/NF) UNIIIC Commissioner Brammertz told the Ambassador that neither any of the P-5 counties, nor Israel, were among the ten countries cited for non-compliance in last month's interim report to the UN Security Council. Indicating some surprise that this has developed into such an issue, Brammertz explained that the non-compliance wording in his latest report was not directed toward counties who had been asked by the Commission to render voluntary assistance in technical matters of the investigation, but rather those counties whose officials were hindering the investigation by refusing to respond to formal UNIIIC inquiries or by giving testimony notable for its obfuscation. On January 15, Brammertz informed Russia's ambassador to Lebanon that his government was making a serious error in judgment if it thought the proposed UNSC non-compliance letter would "help" the Commission with its investigation -- a message which the Russian ambassador said he would convey to his superiors. Concerning the investigation itself, Brammertz' chief investigator expressed confidence that his staff now has a clear picture of how the Hariri assassination was carried out, but still requires a credible witness or irrefutable piece of evidence that would definitively link those responsible with the crime itself. The chief investigator, Peter Nicholson, also said that of the 14 acts of political violence the Commission is investigating, at least six possess strong linkages in terms of motive and modes operandi. Finally, Brammertz gave a general outline of his plan of action for the next six months and the status of the search for his successor. End summary.

2. (S/NF) The Ambassador and Special Assistant met with Commissioner Serge Brammertz on January 17 at UNIIIC's headquarters in Monteverde, located just east of Beirut. At a later point, UNIIIC chief investigator Peter Nicholson joined the discussion to give his opinion of the progress made by the investigation, as well as its upcoming challenges. This morning's meeting was a result of a January 13 telephone call during which the Ambassador had suggested to Brammertz that he discuss with Russia's ambassador to Lebanon his discomfort with the attention being given to the "non-compliance letter" initiative.

BRAMMERTZ TELLS RUSSIAN AMBASSADOR THEY'RE WAY OFF BASE

13. (S/NF) Commissioner Brammertz expressed mild surprise and some consternation that the non-compliance wording in UNIIIC's Interim Report in December had been turned into an issue by the Russians -- and he strongly suspected by the Syrians. Brammertz plainly stated to the Ambassador that neither the U.S. nor any other member of the P-5, nor even Israel, were part of the group of ten nations mentioned in the interim report as being in non-compliance with the Commission. Perhaps realizing the report's wording had been slightly ambiguous, Brammertz explained that there was a considerable difference between nations who for various legitimate reasons could not or were delaying responding to requests for voluntary technical assistance made by the Commission and those nations who were deliberately ignoring formal UNIIIC summons for witnesses or evidence.

14. (S/NF) Brammertz explained that, of course, his Commission welcomed, and indeed required, assistance from nations whose technical or intelligence capabilities could assist his investigators fill in the gaps they were not equipped themselves to address. But those he had intended to indict in his interim report were far different -- namely, those countries whose officials were deliberately ignoring and misleading his Commission. He would not divulge the names of the other non-compliant countries.

15. (S/NF) On January 15, Brammertz met with Russia's ambassador to Lebanon, Sergei Boukin, and informed the envoy that if the Russian government was genuinely trying to assist the Commission, the proposed "non-compliance" letter was clearly not the way to do it. Noting that he had not asked and did not seek such "assistance," Brammertz told Ambassador Boukin that Russia (and by implication Syria) was completely incorrect if it thought the "guilty" parties included France, U.S., or the UK. Brammertz added that other names being

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bandied about (i.e. Israel) were also off base. Brammertz then asked Boukin why would the Russian government try to "politicize" the investigation when its previous public pronouncements had so strongly supported its independence and professionalism.

16. (S/NF) According to the Commissioner, Boukin's response was cautiously measured. Boukin said that his government was merely trying to "balance" and "re-calibrate" the international pressure that it felt had been unfairly directed against Syria, and was merely using what it thought was a complaint registered by the Commission in its last report. As he had in this meeting, Brammertz explained the difference between non-compliance and voluntary assistance to a presumably surprised Boukin, who lamely and unconvincingly explained that he was not involved in the letter initiative. The Russian ambassador assured the Commissioner he would relay Brammertz' message to his superiors.

17. (S/NF) Brammertz expressed some wonder at how such an anodyne statement in a report could blossom into such an intense matter of debate, but then acknowledged that no matter how diligent his Commission carried out its investigation, political realities in Lebanon and the region would always attempt to create disruptions. Brammertz hoped his intervention with Ambassador Boukin would help lay the matter to rest, but said that after nearly a year on the job, nothing really surprised him anymore.

STATUS OF THE INVESTIGATION

18. (S/NF) Chief investigator Peter Nicholson joined the meeting and said he was "upbeat" on recent progress and relatively optimistic that the Commission's investigators were closing in on "critical" paths of inquiry. Some previous lines of inquiry had already been closed, with a more clearly defined focus as a result. The focus is on what happened inside Syria and Lebanon. Nicholson acknowledged

the interim reports had been bland and "technical" to a fault, and perhaps had given those responsible for the crime cold comfort that the Commission was making little progress. Brammertz interjected the Syrians in particular now appeared increasingly confident that they could stall the investigation and wait it out.

¶9. (S/NF) Irrespective of the current confidence of the Syrians, Nicholson said they now have a clear picture of how the Hariri crime was carried out, as well as its most probable perpetrators. What the investigation now needed was a credible witness or irrefutable piece of evidence that would link the lead suspects to the actual crime/crimes. Nicholson said it was quite clear that at least six of the crimes were carried out by the same organization, using the same modus operandi. The evident professionalism of the operations' execution, as well as the technology and explosives employed, led him to believe that little if any written evidence still exists.

¶10. (S/NF) In his view, the best chance to close the case and bring it to a prosecutable level would be to "turn" a person or persons who could provide or describe the link between those responsible and the crime. Brammertz' investigators have scheduled another 150-200 interviews over the next six months, and of these, approximately 30 are with individuals who may have the knowledge that could provide this critical linkage. The difficult part is to convince one or more of those involved to "make a deal" with the Commission.

BRAMMERTZ URGES TRIBUNAL BE ESTABLISHED NOW

¶11. (S/NF) Nicholson indicated the Commission has some "carrots and sticks" to induce such testimony, but the present political realities make it difficult to effectively employ them. Brammertz said one way to apply pressure on these potential witnesses is to establish the Special Tribunal as soon as possible. In Brammertz' view, the longer the tribunal is delayed, the more convinced potential witnesses become that any testimony they give will eventually fall into the wrong hands, with unpredictable consequences. Brammertz urged the U.S. and others to push as forcefully as possible for an expeditious establishment.

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¶12. (S/NF) Brammertz continued that another development that could facilitate witnesses coming forward would be a change in the Lahoud presidency. The Commissioner said that as long as Lahoud remains as a clear symbol of Syrian influence in Lebanon, his presence would likely dissuade individual cooperation with the investigation. Brammertz realized this issue was a matter for the Lebanese people to resolve, but he was aware of its clear impact on the investigation.

THE NEXT SIX MONTHS

¶13. (C) Even though the current UNIIIC authorization expires on June 15, Brammertz said he was confident its staff would continue its work in one form or another. If the Special Tribunal was established and fully operational, he envisioned a careful and thorough turnover of the evidence and any continuing strands of the investigation to competent tribunal staff. Brammertz also realized that the Commission itself might be extended if a transfer could not yet be accomplished in June. No matter the scenario, he said it was important that his successor be chosen soon.

¶14. (C) Brammertz indicated that one highly-sought candidate, a UK jurist currently working at the ICC, had just withdrawn his name from consideration, citing the difficult working conditions in Lebanon. But Brammertz also noted that

at least three other strong candidates were being reviewed, all of whom possessed top-drawer credentials in both investigative and managerial competencies. Interestingly, he remarked that all three candidates had considerable experience in the prosecution of war crimes, which he felt was an important advantage in this type of investigation.

¶15. (C) He said the Commission was now operating on a dual track: a strategic compilation of evidence according to international judicial standards, as well as on a tactical track with regards to a focused effort to solve the 14 cases under investigation by June 2007. Brammertz expressed cautious confidence that barring unforeseen obstacles, both objectives were within reach.

PERSONNEL MATTERS

¶16. (SBU) Confirming previous rumors, Peter Nicholson made known his intention to return to the ICC next month. Project leader Rosemary Nidary, the only American on the investigation staff, also intends to return to her position with the Office of the U.S. District Attorney in New York. Commissioner Brammertz said he was very sorry to lose two staff of their caliber, but at the same time understood that protracted service in Lebanon eventually took its toll. He was confident that either outside replacements or in-house promotions would capably fill the voids.

¶17. (SBU) One issue that clearly irritated Brammertz and which he made no effort to conceal, was the obtuseness and illogical nature of the UN hiring process. The UN's bureaucratic demands for filling any vacancy was intensely time-consuming and often inconsistent -- and it was driving Brammertz to distraction, as well as consuming precious time. One difficult-to-believe episode involved Brammertz' request for a forensic investigator. When this request finally made it through the UN human resources labyrinth, the position was listed in the UN recruitment announcement as a medical pathologist. This incident produced Brammertz' mirthless remark that "Ambassador Bolton would love that story."

FELTMAN